

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

RUSSELL OXSEN,)
v.)
Plaintiff,)
No. CIV-23-56-R
PHILADELPHIA AMERICAN LIFE)
INSURANCE, a foreign corporation; and)
RACHEL MIGL,)
Defendants.)

ORDER

Before the Court is the Motion to Strike (Doc. No. 6) filed by Plaintiff. Therein Plaintiff requests that the Court strike Plaintiff's Notice of Removal (Doc. No. 1) as untimely. The Court hereby DENIES Plaintiff's Motion to Strike. The motion to strike is in reality an untimely motion to remand premised on the alleged untimely removal of this action. 28 U.S.C. § 1447(c) mandates that "a motion to remand the case on the basis of any defect other than lack of subject matter jurisdiction must be made within 30 days after the filing of the notice of removal under section 1446(a)." Here, Plaintiff attempts to avoid the thirty-day limitation by utilizing the nomenclature of a motion to strike. However, the motion is in reality one seeking remand, and any such motion had to be filed not later than February 17, 2023. The instant motion was filed on February 20, 2023, and therefore is untimely. This same defect does not impact Plaintiff's Motion to Remand which addresses subject matter jurisdiction, and therefore is not subject to the same time constraints. The Court will address that motion by separate order.

IT IS SO ORDERED this 22nd day of March 2023.


DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE